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PTO/SB/61 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional)
First Named Inventor:	Mike Katsanevas	
Application Number:	09/611,073	
Filed:	7/6/2000	
Title:	Bank Card Terminal Cover	
<p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p>		
<p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.</p>		
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.</p>		
<p><b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.</b></p>		
<p>NOTE: A grantable petition requires the following items:</p>		
<p>(1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay.</p>		
<p>1. Petition fee</p>		
<p><input checked="" type="checkbox"/> Small entity – fee \$ <u>55.00</u> (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.</p>		
<p><input type="checkbox"/> Other than small entity – fee \$ _____ (37 CFR 1.17(l)).</p>		
<p>2. Reply and/or fee</p>		
<p>A The reply and/or fee to the above-noted Office action in the form of <u>Drawing Submittals</u> (identify the type of reply):</p>		
<p><input checked="" type="checkbox"/> has been filed previously on <u>10/13/2004</u> and <u>10/14/2004</u>.</p>		
<p><input type="checkbox"/> is enclosed herewith.</p>		
<p>B The issue fee of \$ <u>665.00</u></p>		
<p><input type="checkbox"/> has been filed previously on <u>\$655.00 was submitted 7/7/04</u> and</p>		
<p><input checked="" type="checkbox"/> is enclosed herewith. the \$10.00 balance is enclosed</p>		

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

11/23/2004 GWORDDF1 00000054 09611073

01 FC:2452 55.00 0P

11/23/2004 GWORDDF1 00000054 09611073

02 FC:1506 10.00 0P



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature

Date

Marcus G. Theodore

Typed or printed name

26,815

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

On or about May 23, 2004 applicant received a notice of allowance. Applicant's attorney prepared the Fee Transmittal Form and sent it to the inventor to acquire a certified check to expedite issuance of the letters patent and send it in. Applicant's bank issued a check for \$655.00 instead of \$665.00, which was attached to the Fee Transmittal Form and cashed by the USPTO on about 7/7/2004. Applicant and his attorney were not sent a courtesy notification that an additional \$10.00 was due. Nor was notice posted on Applicant's Attorney's PAIR account.

On October 7, 2004 Applicant's attorney was sent a Notice Regarding Drawings requiring additional figures to be submitted. Applicant's Attorney made arrangements for the additional Figure to be submitted and asked the issue branch to check and see if anything else was required for issuance. Applicant's attorney specifically made inquiry as to whether the issue fee had been paid and was told that it had been received. No mention was made that the fee was not for the full amount. On October 12, 2004, Applicant's Attorney discussed the drawing requirements with Reviewing Draftsman Son Lam and then submitted a missing Fig. 2E on October 13, 2004 electronically, and by mail on October 14, 2004. Applicant's Attorney while discussing this drawing requirement again asked the Draftsman if the USPTO computer showed that there were any other outstanding deficiencies and was told that the computer records indicated no additional requirements were outstanding to issue the patent.

On November 9, 2004, Applicant's Attorney again contacted the Issue Branch and made inquiry as to the delay in issuing the letters patent, and was informed that the computer showed that all fees had been paid and that the drawings corrections were entered in the file for the patent to issue and that an official inquiry would be filed to determine the cause of the delay. Had Applicant's Attorney been informed of the \$10.00 fee deficiency, he would have promptly wired the same for the letters patent to issue. On 11/12/2004, Toni Hood contacted Applicant's Attorney and advised for the first time that the issue fee was \$10.00 short and faxed a copy of the Notice of Abandonment..

Under the circumstances where repeated inquiries showed no deficiencies for letters patent (*Please attach additional sheets if additional space is needed.*) to issue, the abandonment was unavoidable. The abandonment should be withdrawn as inequitable.



US Patent And Trademark  
Office  
Toni Hood  
Quality Control Specialist  
703-578-6811 Phone  
703-578-6812 Fax  
toni.hood@uspto.gov

## facsimile transmittal

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**To:** **Marcus Theodore** **Fax:** **801-359-8995**

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**From:** **Toni Hood** **Date:** **11/12/04**

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**Re:** **09/611073** **Pages:** **3**

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**CC:**

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**Urgent**

**For Review**

**Please Comment**

**Please Reply**

**Per Your  
Request**

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,073	07/06/2000	Miles Kalinovas		5054
7590	11/12/2004		EXAMINER	
Marcus G Theodore 466 South 500 East Salt Lake City, UT 84102			LEE, DIANE I	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

1003

APPLICATION NUMBER &amp; TRADE DATE

FIRST NAMED APPLICANT

ATTORNEY DOCKET NO.

09/611,073

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED:

## NOTICE OF ABANDONMENT

This application is abandoned in view of:

Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.

A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.

A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.65(a) and 1.111. (See explanation in the last box below).

No reply has been received.

Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85) (or Notice of Publication Fee Due).

The submitted fee of \$ 655 is insufficient. A balance of \$ 10 is due.  
The issue fee by 37 CFR 1.18 is \$ 605. The publication fee, if required, by 37 CFR 1.18(d) is \$ \_\_\_\_\_.

The issue fee and publication fee, if applicable, have not been received.

Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.

No corrected drawings have been received.

The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.

The reason(s) below: \_\_\_\_\_  
Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

LGD